

Meeting of 2005-2-8 REGULAR MEETING

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 8, 2005 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Brenda Smith, Acting City Clerk
 Col. Keith Herring, Fort Sill Liaison

Mayor Purcell called the meeting to order 6:05 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Father Stafford, Blessed Sacrament, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Rex Givens, Ward Two
 Glenn Devine, Ward Three
 Amy Ewing-Holmstrom, Ward Four
 Robert Shanklin, Ward Five
Jeffrey Patton, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None.

Mayor Purcell welcomed a group of students in the audience.

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO SHIRLEY STRICKLAN.

Edwina Reddick-Scott, Mayor s Commission on the Status of Women, introduced Shirley Stricklan as Citizen of the Month for February. She was commended for sponsoring students who are failing academically to attend the Academy of Music, assisting the Buffalo Soldiers, providing support for projects in foreign countries, serving as a Red Coat Ambassador with the Lawton-Fort Sill Chamber of Commerce and Industry, and for being a Republican. She and her husband, owners of ARA Equipment Rental, provide employment for students and assist them in gaining self-respect and in becoming solid members of the community. Ms. Stricklan is a licensed minister, has chaired the Angel Tree project for two years and is a member of the Business and Professional Women s Club.

Mayor Purcell presented a Certificate of Congratulations from the State of Oklahoma, a Certificate of Commendation from the Mayor s Office, and a Mayor s Do What s Right coin. He commended Ms. Stricklan s volunteer efforts and thanked her for her service to the community. Ms. Stricklan expressed appreciation for being recognized in this manner and provided a story of inspiration.

Mayor Purcell recognized Harold Davis, Equipment Maintenance, for his outstanding performance in finding a serious mechanical problem with a police unit and making appropriate repairs, which likely prevented a serious accident. He thanked Davis for going the extra mile in his duties.

PRESENTATION OF AWARD FROM LAWTON CHAMBER OF COMMERCE AND INDUSTRY

Debra Burch presented the James Farrell ASA Award for Excellence to Mayor Purcell. She explained the award was given for Lawton s outstanding efforts in hosting the National Amateur Softball Tournament. Mayor Purcell presented the trophy to Kim Shahan, Parks & Recreation Director, and thanked him and his staff, and the Lawton-Fort Sill Chamber of Commerce and Industry for their efforts in this regard.

PRESENTATION OF REPORT FROM LAWTON CHAMBER OF COMMERCE AND INDUSTRY

Dana Davis, Chamber President, introduced his staff and reviewed the report, which is on file in the City Clerk s Office. The Chamber responded to 19 requests for proposals for businesses. Sterling Coach has recently begun

operations and has employed 40 persons. The Haggard building has been sold, although the purchasers have not yet occupied the building. A proposal is being developed for the National Guard Armory relocation. He listed trips made by staff to recruit business and industry, and efforts to assist existing businesses.

Davis said Project Laser contains three initiatives: a long-range strategy for economic growth; identify and target 50 companies that make sense for the Chamber to try to recruit, and to encourage the downtown redevelopment project; and to try to bring jet service to Lawton-Fort Sill.

Davis reviewed tourism promotion efforts and noted publications were provided in their report. A video is available of the Discovery Trail promotion. He reviewed the events sponsored or assisted by the Chamber. Davis pointed out the importance of the Military Affairs efforts and of identifying opportunities to add new missions at Fort Sill. He encouraged a strong relationship between the City and the Chamber to benefit both entities.

AUDIENCE PARTICIPATION:

Charles Miller, Comanche County resident, spoke regarding the concept of the E911 merger between Lawton and Comanche County. He asked where the funding would come from for the project, and said Commissioner Kirby said the money would come from the City. He objected to the County Jail, E911, and Emergency Management being placed in a trust at Comanche County. Miller pointed out that the Grady County Jail is in receivership.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETINGS OF JANUARY 18 AND 25, 2005.

MOVED by Warren, SECOND by Givens, to approve the Minutes. AYE: Patton, Haywood, Warren, Shoemate, Givens, Devine, Shanklin. NAY: None. OUT: Ewing-Holmstrom. MOTION CARRIED.

CONSENT AGENDA :

Mayor Purcell asked that Item 7 be stricken. Separate consideration was requested for Items 2 and 17.

MOVED by Shanklin, SECOND by Devine, to approve the Consent Agenda items as recommended with the exception of Items 2, 7 and 17. AYE: Devine, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. OUT: Ewing-Holmstrom. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Joseph and Desirae Brennan in the reduced amount of \$2,179.99; Jay Kinder in the amount of \$253.27; Valerie and Clifford Doggett in the amount of \$59.00; and Angelika & George Merry in the amount of \$237.29. Exhibits: Legal Opinions/Recommendations; Resolution No. 05-___. Action: Approval of claims as listed and approval of **Resolution No. 05-13**.

2. Consider the following damage claims recommended for denial: SBC Communications, Inc. in the amount of \$2,233.95 and Jack Ritter in the amount of \$500.00. Exhibits: Legal Opinions/Recommendations.

Jack Ritter, 612 Honeywell, Geronimo, said a City police dog damaged his vehicle and that the dog had been trained to scratch. He said he did not feel it was right that the City was putting dogs on the street with the potential to cause damage, and then not being willing to repair those damages. Ritter said all he wanted was for his truck to be fixed.

Devine said efforts are being made to stop drug traffic, but if there was not a reason to stop Ritter, other than a traffic violation, and then call a narcotics dog, which is allowed to scratch Mr. Ritter's truck, and no drugs were found in Ritter's vehicle, it did not seem right. He said he did not see how they could allow damage to be done to a vehicle or property and not suffer the consequences because the dogs could be running rampant and destroying any vehicle they came close to. Devine said the dogs are needed but they need to be kept under control and not be allowed to start pawing on a vehicle that contains no drugs.

MOVED by Devine, SECOND by Ewing-Holmstrom, to approve Mr. Ritter's claim.

Shanklin asked why the amount was rounded off to \$500. Ritter said he turned in three estimates and the City apparently averaged them. Vincent said the low estimate was \$461.37.

Deputy Police Chief Johnson said the dogs are not allowed to run rampant. The dog is called an aggressive alert dog, meaning that is how he alerts on anything suspicious he is trained to search for. He alerted on the vehicle, it was searched and no drugs were found, but that does not mean that there had not been drugs in the car at some point, or that there were not drugs in the car at the time, they just were not found.

Detective David Schucker, Special Operations Section, LPD K-9 Trainer, said he had been involved in training and handling of K-9s for the past nine years. He said he works with each dog and each handler in the department, and

this particular dog is a nine-year veteran of the LPD, and has had over 1,500 hours of training. The dog goes through rigorous testing yearly to certify the dog by the State of Oklahoma and the Council on Law Enforcement and Education to insure he is doing what he is trained to do. Schucker said on this occasion, this officer and another officer were in a two-man police car, they were operating on the Teddy Program, which is traffic enforcement, drug interdiction. To apply case law to this, they had stopped Ritter for speeding, there was a K-9 in the vehicle already, they did not call for one, and while Officer Sheppard was writing traffic citations for speeding, Officer Jenkins got his dog, Flipper, out of the vehicle and ran him around Ritter's vehicle. Flipper did indicate or exhibit a behavior change indicating that the presence or the odor of controlled dangerous substance and he is an aggressive alert dog so he will scratch, lick and sometimes bite at the source of the odor. Schucker said based on case law, the vehicle is then subject to being searched because in the eyes of the court, this dog, based on his training, experience and certification, is enough to establish probable cause that there is a controlled dangerous substance or at least the odor of the controlled dangerous substance emanating from the vehicle. The vehicle was searched and no drugs were found but that does not necessarily mean there were not drugs in the vehicle or that there had not been in the recent past, it just means the officers did not find what they were looking for.

Schucker said a police dog's nose is about 20 times more sensitive than a human being. He said if drugs had recently been removed, the dog could still detect the odor of the drug emanating from the vehicle. Schucker said it will eventually dissipate but within the recent past, the dog still detects that odor. He said even though drugs were not found, the dog was not wrong, it has been trained and is experienced and his records prove that this dog has not been wrong, and that he would stake his reputation on this dog.

Haywood asked Ritter if his father was previously a Lawton police officer. Ritter said no.

Ritter said his vehicle was worked on at a shop in Lawton the weekend before this happened, and he could not say if they do any such thing. He said he is a member of the IBEW, Local 1141, passes drug tests and carries a drug free workplace card and does not use drugs. Shanklin said the information shows the claimant admitted to the police officer the prior use of narcotics but none were found in the vehicle. Ritter said he admitted to it 12 years prior to this. Shanklin asked why Ritter volunteered that information and Ritter said he was asked by the police, and that he had a 10 pony tail at the time he was stopped, and he was growing it for the Locks for Love Foundation. Schucker said frequently when the dogs alert and drugs are not found, they try everything they can to confirm that the dog has done what he has been trained to do; they will interview the driver and occupants of the vehicle, ask them why a dog might have alerted to the vehicle, if they had been arrested or used drugs in the past, and run records checks. He said Ritter said he had smoked marijuana in the past. Ritter said he told the police 12 years ago.

Ewing-Holmstrom said she strongly supported the police but if someone else had his vehicle, he would have no control over that. She said she recently bought a used car and had no control over what the previous owner may have done in that car, and it was a scary thought to think this may happen. She said she could see both sides.

Schucker said he was interviewed by Channel 7 on Friday night, they ran a police dog around a white Suburban that is used by the Special Operations Section. They use the vehicle to issue search warrants and they put drug evidence in the back of it on a weekly basis. It is also used to train the dogs. Two weeks prior to last Friday it was used to train the dogs; they hid drugs in the vehicle and used the dogs to search it. Friday night, the dog walked around the vehicle five times and never alerted on it because the time frame between transporting evidence and using it for training, the odor had dissipated, so there was no recent odor. The only reason the dog will alert is if there is a substance in the vehicle or if the substance has been in the vehicle recently.

Ewing-Holmstrom asked the time frame referred to. Schucker said on a hot, sunny day the odor from narcotics would be gone from the vehicle but on a cold, rainy day it may last for one to three hours. Ritter asked if it could be four days.

SUBSTITUTE MOTION by Warren, SECOND by Shanklin, to deny the claim inasmuch as the claimant would have recourse in District Court. AYE: Shanklin, Warren, Shoemate, Givens. NAY: Ewing-Holmstrom, Patton, Devine. OUT: Haywood. SUBSTITUTE MOTION CARRIED.

MOVED by Warren, SECOND by Shanklin, to deny the claim of SBC Communications, Inc. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

3. Consider acknowledging the receipt of a Quit Claim Deed for the right-of-way for Quanah Parker Trailway from NW 52nd Street northwesterly to a point 1320 feet east of W. 82nd Street (Parcels 1, 1.1, 1.2, 1.3, 2, 2.1, 3, 4, 5, 6 & 7) All of this right-of-way is located in Sections 19-21, Township 2 North, Range 12 West, situated in Comanche County, State of Oklahoma, from the State of Oklahoma. Exhibits: Quit Claim Deed; Letter from ODOT. Background: Oklahoma Transportation Commission Agenda Item No. 58 approved on 4/7/97 removed the above referenced section of roadway from the State Highway System and by Title 69, Oklahoma Statutes 2001 Section 501 C the Department is transferring title to the City of Lawton via Quit Claim Deed, Book 4575 Pages 54-55 filed 1/11/05 in the Comanche County Courthouse.

4. Consider authorizing the City Attorney's Office to close the file in foreclosure case styled The Leader Mortgage Company v. Barbara L. Johnstone et al, Case Number CJ-2004-164, in the District Court of Comanche County. Exhibits: None. Action: Approval.

5. Consider authorizing the City Attorney's Office to close the file in foreclosure styled Mortgage Electronic Registration Systems, Inc. v. Denise L. Laurel et al, Case Number CJ-2004-466, in the District Court of Comanche County. Exhibits: None. Action: Approval.

6. Consider awarding a construction contract to Davenport Construction for the NE Flower Mound Road (Gore Blvd. To Rogers Lane) Water and Sewer Line Relocation Project #2004-9. Exhibits: None. Action: Award as stated in the amount of \$531,450.00.

7. Consider awarding a construction contract to Wind River Construction for the Water System Security Fencing Project 04-4 SSES. Exhibits: None. Action: This item was stricken and not considered.

8. Consider awarding a construction contract to Metal Roof Contractors, Inc. for the Lawton Police Department Re-Roofing Project #2004-16. Exhibits: None. Action: Award as stated in the amount of \$145,150.00.

9. Consider accepting documents which are needed for the Flower Mound Project #STP-116B(046) (Gore Blvd. To Rogers Lane) and authorize the Mayor and City Clerk to execute the proper documents and authorize payments to property owners for all of the items listed below. Exhibits: None. Action: Accept document Lon and Betsy Parks, Warranty Deed - \$4,460.00; Temporary Easement - \$163.00.

10. Consider acknowledging receipt of a permit from the Oklahoma State Department of Environmental Quality for the construction of 470 linear feet of eight (8) inch PVC water line and all appurtenances to serve Taco Mayo, City of Lawton, Comanche County, Oklahoma. Exhibits: None. Action: Acknowledge receipt of Permit No. WL000016040878.

11. Consider accepting a water main extension to serve Taco Mayo located at 5209 SW Lee Boulevard, a long-term lease in lieu of permanent utility easement, an escrow agreement in lieu of completed improvements, and a maintenance bond. Exhibits: Map. Action: Approval.

12. Consider approving the record plat for Doe Doe Park Development, Part 1. Exhibits: Map. Action: Approval. All conditions have been met. It is anticipated that Lot 3R will be deeded to the City for park and drainage purposes.

13. Consider approving the Replat of Lot 6, Block 1, Lawton Industrial Park, Part 1. Exhibits: Map. Action: Approval.

14. Consider approving Robert W. Baird and Company as an authorized investment company for the City of Lawton. Exhibits: Information. Action: Approval.

15. Consider accepting donation of eleven police jackets to be utilized by the police department's Gang Task Force. Exhibits: None. Action: Accept anonymous donation.

16. Consider accepting a contract amendment to a grant from the Oklahoma Department of Libraries to purchase and install wireless technology. Exhibits: None. Action: Approval.

17. Consider amending Minutes of previous Lawton City Council meetings. Exhibits: None. Action: Approve amendments to Minutes of 6/8/04, 8/10/04, 8/24/04, 10/26/04 and 11/9/04.

Shanklin said he noticed there were eight to ten ordinances listed needing correction and asked if one was changing the 14' elevation of limbs to the City's responsibility. He asked if that had ever been changed. Mitchell will check.

MOVED by Shanklin, SECOND by Warren, to approve Item 17. AYE: Patton, Haywood, Warren, Shoemate, Givens, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

18. Consider awarding contract for Flush Truck Hose (CL05-030). Exhibits: Department Recommendation; Bid Abstract. Action: Award to Sewer Equipment Company of America.

19. Consider approving the following contract extension: A) Manhole Rings and Covers (CL04-049) with Water Products of Oklahoma, Inc. Exhibits: None. Action: Approval.

20. Consider approval of appointments to boards, commissions and trusts. Exhibits: None.

LAWTON METROPOLITAN AREA AIRPORT AUTHORITY

George L. Moses

Dr. Richard L. Campbell

Res: 101 NW Ft. Sill Blvd. 353-4145 Res: 146 NW 36th 248-5424

Bus: 355-0211

Bus: 248-2220

Term: 2/10/05 to 2/27/08

Term: 2/10/05 to 2/27/08

John C. DiRenzo, Jr.

Steve Gilkeson-Chamber Rep.

Res: 48 Logue Road, Cache, OK 429-3739 Res: 4214 SW Lee Blvd.

Bus: 581-2846

Term: 1/1/05 to 12/31/05

Term: 2/27/05 to 2/27/08 (*Note: The City Code requires in-town residence of members of boards, committees and commissions; however, the Airport Authority is a public trust governing the Lawton-Fort Sill Airport, which is a regional facility.)

LAWTON ECONOMIC DEVELOPMENT AUTHORITY (LEDA)

David Denham

David Means

Term: 12/15/04 - 12/15/11 (reappointment) Term: 12/15/04 - 12/15/11 (reappointment)

PARKS & RECREATION COMMISSION: Joanne Gaasbeck Mayor's appointee

Term: 1/1/05 to 1/1/07 (reappointment)

21. Consider approval of payroll for the period of January 31 to February 13, 2005. Exhibits: None.

BUSINESS ITEMS:

Item 27 was considered at this time as follows:

27. Consider a resolution authorizing the installation of traffic control devices at the intersection of East Gore Boulevard and Lawrie Tatum Road. Exhibits: Resolution No. 05-___.

Mayor Purcell said he brought this back based on Council postponing it for 30 days. He said the Police Chief previously reported three accidents, and two have occurred since then. Mayor Purcell said he talked to the motel manager and he objects to a traffic control device saying right turns only or no left turns on a permanent basis because it is inconvenient to those using the casino and motel, but he and the owner of the motel would rather do that on a temporary basis to avoid someone being killed or seriously injured, as long as a better solution can be found. He said he asked the Traffic Engineer to look at it again, and a traffic light has been mentioned as a solution. Mayor Purcell said that is not the solution but something must be done at that intersection before someone is killed or injured. He said something must be done on an interim basis.

Shoemate asked why a signal light would not be the solution. Larry Wolcott, Traffic Engineer, said there are two existing traffic signals at the I-44 off ramp, and they are actuated by traffic coming off of or entering I-44. Wolcott said this intersection is only 300 feet away from existing traffic signals, and there is no way to leave those lights actuated if a traffic signal is put in, so they would all have to be synchronized and they would not react to traffic on I-44, which could back up traffic on I-44 and on Gore. He said for comparison, the lights at 38th and Cache and at 40th and Cache are 900 feet apart, so 300 feet is just too tight.

Shanklin asked if there was a comparison as to the numbers of cars coming from the motel and casino as opposed to those coming from the off ramp. Wolcott said he did not know that. Shanklin said the great majority of traffic was coming from the businesses and it might be better to have stop signs on the ramps.

Mayor Purcell said the casino is looking at routing traffic a different way, which may solve the problem with the casino and new civic center, but it still does not solve the problem that has existed for years, though not as bad, with the motel. He said those coming south on Lawrie Tatum Road try to turn east and two or three vehicles stop in the center median waiting for traffic to pass, and they cannot see around them, so someone decides to go and there is an accident. Mayor Purcell said prohibiting left turns would require traffic to make U-turns somewhere further down, but there are turn lanes that can handle that and both are high enough to provide a good sight distance.

Shoemate said during a concert there may be 20 or 30 cars trying to make U-turns and that would be a real problem.

Ewing-Holmstrom asked why this was not considered before the casino was built, and what is the casino doing to help the flow of traffic. Shoemate said they were looking at putting an exit to the south to take care of some of that traffic. Ewing-Holmstrom asked if there was a time frame. Shoemate said they were working with the City and the State in that regard.

Mayor Purcell said this is obviously not the final solution, and there may be an exit onto the I-44 ramp or a light

may be installed if it can be worked out. Ewing-Holmstrom asked how likely it was that ODOT would help. Wolcott said he had met with the Division 7 Engineer on it, and access at an off ramp is common for them to see at a large, commercial business; they just need an overall plan from the tribe for their development to tie into that. Shoemate said it could be synchronized like the lights on Cache Road and Fort Sill Boulevard, and it should work here. Patton said eventually there will be a light at this intersection, and we are just putting off the inevitable. Patton said it would save lives and not have a negative impact on traffic.

Mayor Purcell said if you come out of the casino to turn left and we have a light there, we make that first light on the east side of 44 green so people can go; the people on Gore going west are stopped for a red light. Now what do you do when that light turns red that is letting people out of the casino. It changes to red and the people on Gore can only go about five or six cars between the lights and that is the issue because you still have the light for people coming off of the interstate to turn red and green at the same time. If you could make an overpass, that is another way, but the light will not happen in the next 30, 60 or 90 days so what do we do in the meantime to address the accidents that continue to happen at that location. If you want to do nothing, that is fine, but if something serious happens, we will put no left turns or right turn only at that location. Why wait for that to happen?

Ewing-Holmstrom said traffic would likely not obey the signs. Mayor Purcell said a block can be placed in the median to prevent it.

Shanklin said a traffic impact study is coming in May 2005, and asked if it could be speeded up. He said it is solely to give us the development of the casino both on Gore and on Lee Boulevard.

MOVED by Shanklin, to accept the Traffic Engineer s design as stated.

Roger Bank, General Manager of Best Western Hotel, said he was concerned about safety but did not want to put this off for 90 or 120 days. He said by prohibiting left turns, the problem is only being moved a half a mile down the road for a U-turn area that has space for only three cars so those in the left lane going east on Gore will experience a traffic backup. Bank said the immediate solution of no left turn for 30 days would be agreeable so no one gets killed, but a traffic light must be installed and synchronized. He said at 5 p.m. in about 90 seconds, 35 cars came over the freeway ramp, and only two cars came off of the ramp. Bank said the light for northbound traffic is not needed because there is not enough traffic. He said he agreed with the 30 day no left turn, but for the long term, a light was needed due to the motel, apartments and casino, and the light must be synchronized. He said a study should be done of how many cars are coming off the freeway ramps.

Mayor Purcell said it is impossible to install a traffic light in 30 days. Warren said this is a six arterial road and having only a 300 feet distance between lights is not workable. Patton asked how long it takes to get a light installed. Mitchell said the cost is between \$80,000 and \$100,000 and a determination would be needed on who would pay what share. Ewing-Holmstrom asked how much input there will be from ODOT because of the ramp and that the City does not control some of this because it is a state roadway. Wolcott said the ODOT Engineer was open to the idea of having access to the frontage road over the deceleration off ramp, but he must get that approved through the Federal Highway Administration. Ewing-Holmstrom asked how long that would take and Mitchell said possibly six months.

Wolcott said he had spoken with the engineering firm that is doing consulting work for the tribe, and part of their contract is to do a traffic impact study that will address access at Gore Boulevard and at Lee Boulevard, and improvements, and that is the study that should be ready in May. Devine said either the motel or the casino would lose access and asked which one it would be.

Ewing-Holmstrom said at 10 p.m. tonight the traffic will be bad. She said there are these huge businesses that are making tons of money with all of these customers and the City can only do so much. Bank asked why the onus should be on the property owner when it is a City problem and that is what the government is for.

Shanklin offered a motion to go with staff and at the same time be working to get a count and to find out how we are going to put that light in and move this civil engineer, whoever it is, to make it a priority and not wait until May. He asked if he was already hired. Mitchell said the casino hired him. Devine suggested the motel and casino hire off-duty police officers to provide traffic control. Shoemate said security directs traffic after the concerts. Deputy Chief Johnson suggested caution be used in allowing persons other than law enforcement officers to direct traffic on a public street. Shanklin asked if it would be better to wait until the engineering study is completed. Bank said yes.

MOVED by Shanklin, SECOND by Devine, to leave it like it is and see if we can move up the anticipated engineering study of that intersection, along with the one on Lee.

SUBSTITUTE MOTION by Warren, SECOND by Ewing-Holmstrom, to adopt the resolution directing that no left turn signs be placed for north bound traffic coming out of the casino/hotel, and south bound from Lawrie Tatum Road for a period not to exceed 90 days and the item should be returned to Council as soon as possible, hopefully before 90 days. AYE: Warren,

Givens, Ewing-Holmstrom. NAY: Haywood, Shoemate, Devine, Shanklin, Patton. SUBSTITUTE MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Shoemate, Devine, Shanklin, Patton, Haywood. NAY: Warren, Givens, Ewing-Holmstrom. MOTION CARRIED.

22. Consider approving and accepting a one-time donation from the Lawton Amateur Softball Association for the benefit of improvements to the City of Lawton ballfields. Exhibits: Copy of Donation Check.

*Ewing-Holmstrom left the meeting at this point and did not return.

Kim Shahan, Parks & Recreation Director, expressed appreciation for the work done by this association, which is holding tournaments to provide funding for maintenance at the McMahon Softball Complex.

MOVED by Shanklin, SECOND by Devine, to accept the \$1,500 donation. AYE: Shanklin, Haywood, Warren, Shoemate, Givens, Devine. NAY: None. OUT: Patton. MOTION CARRIED.

23. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from R-2 (Two-Family Dwelling District) to C-1 (Local Commercial District) zoning classification located at the southeast corner of Fort Sill Boulevard and Ferris Avenue. Exhibits: Resolution No. 05-___; Ordinance No. 05-___; Location Map; Site Plan; Applications; CPC Minutes; Petition.

Deborah Jones, Acting Planning Director, said this request was initiated by Bedford Mitchell, owner of the property, for Lots 5-6, Block 11, North Addition. The applicant is Hinkle Services. The proposed use is a restaurant. Zoning of the surrounding area is Public Facility to the north, R-2 to the south and east, C-1 and C-4 to the west. Land use of the surrounding area is Lawton High School to the north, single-family residential to the south, low density residential to the east, and commercial and low density residential to the west. Current land use of the requested area is vacant. The 2025 Land Use Plan designates this area as residential, low density. It did examine this plan and recommend that care should be exercised to prevent commercial encroachment into the preservation efforts of the neighborhood.

Jones said on January 13, 2005, the City Planning Commission held a public hearing on this request. One person spoke in favor of the request and five persons spoke in opposition. A petition has been received against the request; it constitutes 57.17% of the property within 300 feet of the requested area. She said some of the concerns raised by the residents during the public hearing were traffic safety, safety of the school children, and encroachments into the Old Town North area. The CPC by a vote of seven to zero recommended denial of the request based upon these concerns. A copy of the petition is attached to the commentary. A slide was shown indicating residences of those who signed the petition. Based on Oklahoma Statutes because more than 50% of the property owners within 300 feet of the requested area signed a protest petition, approval of the ordinance would require six affirmative votes by the Council. Notice of public hearing was mailed to property owners on January 18 for this hearing tonight; notice was published in the Lawton Constitution on January 23, 2005.

PUBLIC HEARING OPENED.

Amy Halbrook, 1203 1st Street, Elgin, Oklahoma, said she was the representative for Hinkle Services, Inc. of Edmond, Oklahoma. She said they are property developers and franchisees of the Taco Tico Restaurants. Halbrook apologized to the residents of Old Town North and Lawton Public Schools for any disturbances they may have caused. She said their purpose of rezoning the southeast corner of Fort Sill Boulevard and Ferris was in no way intended to bring harm to the residents of Lawton nor the children of Lawton High School and Central Junior High School. Halbrook said they felt the corner was worthy of development and beautification and as a resident of the Lawton area for the past 35 years, she had watched Lawton progress, but only to a point. She said she had watched these two lots in Old Town North become campaign headquarters for many political candidates in every election.

Halbrook said Hinkle Services wanted to beautify this corner with their new style Taco Tico Restaurant, maintain landscaping according to City Codes, and an eight to ten foot barrier wall would adjoin the residential property. She said due to the overwhelming opposition, they would withdraw their application for rezoning at this time and seek other locations for their Taco Tico development. Warren said speaking on behalf of the residents of Ward 8, he would welcome the company with open arms.

Steve Johnson asked if the withdrawal needed to be acted on. Mayor Purcell said Johnson could speak if he wished. Johnson said he would waive that.

Chuck Wade, representing Lawton Public Schools, said he wanted the record to show that he was present.

Deborah Jones said she would like to note for the record that the owner, Mr. Mitchell, has not contacted her office nor withdrawn the rezoning request.

PUBLIC HEARING CLOSED.

MOVED by Shanklin, SECOND by Haywood, to deny the request to amend the 2025 Land Use Plan and rezoning. AYE: Haywood, Warren, Shoemate, Givens, Devine, Shanklin. NAY: None. OUT: Patton. MOTION CARRIED.

24. Hold public hearings and adopt resolution declaring the structures at: 1305 NW Lincoln Avenue and 1411 NW Lake Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Resolution Nos. 05-___; 05-___.

1305 NW Lincoln Avenue: Melissa Laycock, Neighborhood Services Supervisor, said this structure sustained a fire in December 2003. Neighborhood Services secured the main structure. Pictures of the structure were shown.

PUBLIC HEARING OPENED.

Deputy Police Chief Johnson said the fire was a result of a meth lab explosion, and that should be taken into consideration.

PUBLIC HEARING CLOSED.

MOVED by Givens, SECOND by Shoemate, to adopt Resolution No. 05-14. AYE: Haywood, Warren, Shoemate, Givens, Devine, Shanklin. NAY: None. MOTION CARRIED.

1411 NW Lake: Laycock presented pictures and said this is a voluntary D & D. It is a fire-damaged property, which the City secured in August 2001, and a fire occurred in October 2003. She said Mr. Nottingham approached her to receive reduced tipping fees.

Givens said this property is owned by a commercial developer, just like Mr. Gaskins previously and his request was turned down because it was felt the dumping fees should be paid by a commercial developer. He said this is a similar situation. Laycock said Mr. Nottingham was told this would be put on the D & D list so he asked if he could make it voluntary and she said she would take it to City Council, no problem. Mayor Purcell said Mr. Gaskins situation involved a large, commercial building that perhaps could have been saved but they wanted to demolish it to build something new, whereas this really is an eyesore and blight.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Devine, to adopt Resolution No. 05-15.

Warren asked if it would be appropriate to have a future agenda item to disallow voluntary demolition of commercial structures. Devine said he thought the residential structures should be allowed. Warren said the owner, who may be a realtor, builder or developer, has allowed the structure to get in that condition and they are then being rewarded for doing that by paying half of the dumping fees.

VOTE ON MOTION: AYE: Warren, Shoemate, Givens, Devine, Shanklin, Haywood. NAY: None. MOTION CARRIED.

25. Consider approving a request to enter into a memorandum of understanding with the City of Lawton and the Oklahoma Office of Homeland Security for the purposes of continuing direct support of local homeland security grant funded efforts for the Statewide Interoperable Communications Program in accordance with program guidelines. Exhibits: Copy of Memorandum of Understanding.

Deputy Chief Johnson said this is a Homeland Security grant for the 800 megahertz system, and Lawton fire, police, E911 and other emergency support agencies have requested this since 9/11. This will provide the opportunity for the agencies to communicate with each other, support agencies, and agencies across the state. He said instead of the City of Lawton taking its share, which is \$2.2 million, and trying to install its own system and do the necessary studies, the State has requested the agencies to volunteer to let them manage these funds. Johnson said we only have to tell them how many radios we need and where we want them and it is a turnkey system. He recommended approval.

Mitchell said he understood this to be a statewide-integrated communications system that would allow communications throughout the state for anyone participating. Johnson said yes, and at this time, we cannot communicate with the highway patrol, FBI or OSBI, and that was apparent on September 11th in Washington, D.C. so we are learning from that lesson.

MOVED by Warren, SECOND by Shoemate, to approve the Memorandum of Understanding. AYE: Shoemate, Givens,

Devine, Shanklin, Haywood, Warren. NAY: None. MOTION CARRIED.

26. Consider approving an Ordinance amending Chapter 22, Section 22-1-1-102-A(1) and A(2) and Section 22-1-1-104-B, Lawton City Code, 1995, as amended, increasing the income limits for elderly and disabled persons to qualify for a reduction in utility rates and for deferral of the late payment penalty on current utility bills; amending Section 22-1-1-104-B to conform with Section 22-1-1-102-A(2) regarding renewal time for continuance of the discount, providing for severability, and declaring an emergency. Exhibits: Ordinance No. 05-__.

Shanklin said several years back he wanted to raise this to \$18,000 but he was convinced not to do so because of the way it would look to bonding companies. He said the Finance staff has received several requests to raise this because several people miss it by \$100 or \$500, and this will give those elderly and disabled persons roughly a \$230 rebate over a year s time. Shanklin asked that it be supported.

MOVED by Shanklin, SECOND by Haywood, to approve Ordinance No. 05-04, waive reading of the ordinance, read the title only, and declare an emergency.

Givens said a recent election dealing with property taxes for elderly and low-income persons established certain income limits, and asked what those limits were. Mitchell will check on the income limits.

(Title read by City Attorney) Ordinance No. 05-04

An ordinance pertaining to utilities amending Section 22-1-1-102 and 22-1-1-104, Division 22-1-1, Article 22-1, Chapter 22, Lawton City Code, 1995, by amending Paragraph 102-A(1) and A(2) and also Paragraph 104-B, increasing the combined annual gross household income for eligibility to receive a reduction in utility rates for elderly and disabled persons and for eligibility to receive a deferral of the late payment penalty for one month for all single family dwelling units for those persons who qualify for the utility rate reduction and amending Section 22-1-1-104-B changing the annual renewal month from May to April to conform with Section 22-1-1-102-A(2), providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Givens, Devine, Shanklin, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

28. Consider adopting an ordinance amending Section 17-1-6-167, Lawton City Code, 1995, by reducing the notice required prior to an employee taking terminal leave, providing for severability and declaring an emergency. Exhibits: Ordinance No. 05-__.

Jim Scholes, Human Resources Director, said this item was developed through discussion with department directors. He said this would help some departments with more skilled positions, such as attorneys and engineers, and should improve productivity; it changes the notice requirement from six months to sixty days with regard to use of terminal leave.

MOVED by Warren, SECOND by Shoemate, to approve Ordinance No. 05-05, waive reading of the ordinance, read the title only, and declare an emergency.

(Title read by City Attorney) Ordinance No. 05-05

An ordinance pertaining to personnel policies and procedures, amending Section 17-1-6-167, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 1995, by reducing the notice required for terminal leave, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Shanklin, Haywood, Warren, Shoemate, Givens, Devine. NAY: None. MOTION CARRIED.

29. Consider approving a credit adjustment to utility account #0503101057 for Bruce Christie for property located at 3817 NW Ferris in the amount of \$286.83. Exhibits: Information provided by Mr. Christie; Ordinance No. 04-43; 11/9/04 Council Minutes Excerpt.

Devine said this item is against City policy on leak adjustments on commodes, and he always felt there was an exception in any rule where a change could be made if needed. He said this lady was placed in the hospital and during that time, her commode was stuck open, and no one checked her home. Devine said she was in the hospital from June 15 to August 8 when she passed away, and when her relatives went to her home to check, they found the commode had been stuck open and they received a water bill for \$279. He said this is against the policy in the ordinance that states that we do not allow for commode leaks, but under the circumstances, this is one of the cases that would be justified if Council made an exception to the rule.

MOVED by Devine, SECOND by Shoemate, that this bill be paid.

Haywood asked the amount. Devine said it is \$295.14. Mayor Purcell said the motion on the floor is to approve the adjustment.

Mayor Purcell said this is not a policy, it is an ordinance that was just passed on November 9. Devine agreed. Mayor Purcell asked the City Attorney if Council had the right to ignore that ordinance, or if the ordinance needed to be changed. Vincent said for the Council to be legal, the ordinance would need to be amended to allow for certain exceptions in certain circumstances. Vincent said as the ordinance is written, there is no adjustment for leaky toilets. Vincent said however, this occurred before the ordinance was passed, and at the time the leak occurred there was no ordinance containing that language. Mayor Purcell said it would not be a violation in this particular case and Vincent agreed. Vincent said in the future, if you want the ability to grant exceptions, an ordinance amendment will be required.

Devine said under normal circumstances, he would not ask for this at all. Warren said he understood that leaking toilets were not included in the past and that it had been the case for quite some time. Rick Endicott, Finance Director, said they had never, to his knowledge, made an adjustment for a leaking toilet or water heater leaks. Endicott said Mr. Christie had received a couple of bills prior to this bill that is in question, and they had paid them and the bills had increased showing there was some type of leak prior to this. Vincent said the ordinance codified what had been past policy into the code; prior to the adoption of the ordinance, we had not allowed it for running toilets or hot water heaters, but that was a policy and not an ordinance. Haywood said if he was going back and forth to the hospital because his mother was sick, he did not have time to check on the house. Vincent said in this situation, because of the dates involved, it would be OK, but if the dates were different, there would be a problem.

Mayor Purcell asked for a roll call on the motion for approval of the adjustment.

VOTE ON MOTION: AYE: Haywood, Shoemate, Devine, Shanklin. NAY: Warren, Givens. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood said the young ladies in the audience were a group called the Dream Catchers, and one day they may be serving as City Councilmembers or even the President of the United States. He said February is Black History Month, which started in 1926 by Carter G. Woodson, who was a scholar from Harvard University. Haywood said it was started due to lack of historical records of the accomplishments and contributions of African Americans, so it began as an event only held during the second week in February but then in 1976, it was expanded into a month long event. He said the month of February was chosen by Mr. Woodson because of President Lincoln and President Douglas.

Shanklin said many times there are extenuating circumstances that mitigate codes and ordinances and we are only identifying with one of our citizens who has had a mishap that he could not avoid and it really was not his fault. He said there must be a time when a little compassion is given. Mayor Purcell said the Council had done so and Devine may wish to return an ordinance amendment for future situations. Devine said he was trying to remove all of the water leak adjustments because \$50,000 in revenue was not collected last year and that is a pretty good employee salary. Mayor Purcell said if it is not amended, Council will not have the ability to make exceptions as was done tonight. Devine said he would visit with the Finance Director. Devine said most of the time, the staff is really understanding and Ms. Curran does a beautiful job working with everybody and trying to make everything work for the people and they are pretty compassionate. Devine said this was just a different circumstance, and he appreciated the City Attorney for bringing this to light where Council was able to make the adjustment. He said he appreciated the members who voted in for and showed compassion.

Givens said the Sign Committee is working, the Planning Department has other priorities and it is difficult to come up with a matrix to show all of the different possibilities. He said he hoped it may be ready in March for the Sign Committee to review. Givens said improvements have already been made on Cache Road due to Neighborhood Services enforcing existing code, and the small, multiple signs have almost been eliminated. Haywood asked if businesses are first told what is wrong before citations are issued. Givens said yes, they are given an opportunity to fix the problem and are given a citation only if they do not fix the problem. Givens said Circle K called to find out the rules and assured staff they would take care of each of their stores all over town and that is what we like to see being done.

Givens said the Lawton Enhancement Task Force met and there was some advancement but not a whole lot. He said another meeting would be held, and the realtors may have a little more to offer at the next meeting in February.

Givens said he had taken note of a couple of ordinances, especially in the inspection area, requiring certain things and permits are issued based on those requirements, but no one checks to see that is what happens and often it is not what happens. He asked why all of the rules were there if we do not see if they are being followed. Givens said curb cuts are an example, and another was a rule that a certain amount of a building would have to go toward beautification, and other matters. He said if we are not following the ordinances, they should be repealed. Mayor Purcell said a committee is reviewing all of the ordinances and that may be a subject for them. Givens said he really was not questioning the need for the ordinance but the City should follow through to see that the ordinance is being enforced. Mayor Purcell said the City Manager should be given direction in that case, and an ordinance

that is not being enforced is worthless.

Rick Endicott, Finance Director, said he appreciated Devine's comments, and one of the most difficult things to deal with in Finance is, on a daily basis, people are in with a multitude of situations and probably most of them are situations we wish we could say, let me do this for you. He said the predicament is that their job is to enforce, as best they can, the policies and procedures that the Council has set forth, and he wanted to make sure he said it in public that we do want to be humanitarian, however, when he goes to make a decision whether one is worthy and the other is not, he is then accountable to the City Manager, Council Members, and the taxpayers. Endicott said Mr. Christie's situation was unfortunate, and he could say that there were two or three people in prior to him asking for some sort of adjustment or reduction. He said there seems to be a perception that they are just hardnosed and this is the way it is and it is a difficult situation. Endicott said he thought it was a step in the right direction about the larger leak adjustments, and these things are daily with us, we only bring a few to the Council, but daily we get a lot of people.

Endicott said he would ask for the support of Council, and he would love to see the leak adjustments done away with altogether, and there are other communities that do not make adjustments for leaks, but we do and if someone came in his office tomorrow with a story just like Mr. Christie's, he would do the same thing and recommend that they speak to a Council member and bring that before Council. He said it was his and Ms. Curran's job to try to enforce, as best we can, the policies that are in place and we want to do it in a humanitarian way. Endicott said he appreciated Mr. Devine's comments.

Mitchell distributed OML information called a Legislative Bulletin and it will be published and provided to Council each Monday. He said the legislative session started yesterday and it will be busy. Mitchell said one of the major issues this session is the water and preservation of water rights, and there are almost 30 bills introduced regarding water issues so there is a lot of interest in this area, and hopefully we will be able to protect our rights during this session. Vincent said a legislative meeting is tomorrow at 1:30 p.m. at OML and he will visit with representatives from other cities on water legislation, and one of our prime bills, Senate Bill 525 is coming up for a committee hearing Thursday morning at 8:30 and he would attend the hearing on behalf of the City and at the request of Senator Bass.

Mayor Purcell thanked Melissa Laycock and the Neighborhood Services staff for enforcing the sign ordinance and they are doing an outstanding job; the results are starting to show and the City is looking better.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

30. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the lawsuit in the Comanche County District Court, Bank One, NA v. Pat N. Paige and the City of Lawton, Case No. CJ-2004-747; and if necessary, take appropriate action in open session. Exhibits: None.

31. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation case of Charles Cook, Case No. 99-12430 A, and if necessary, take appropriate action in open session. Exhibits: None.

32. Pursuant to Section 307B.3 and 307D, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the acquisition of property for public purposes, and if necessary, take appropriate action in open session. Exhibits: None.

33. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the appointment of a new City Clerk, and in open session take any action necessary. Exhibits: None.

MOVED by Devine, SECOND by Warren, to take a ten minute break and then convene in executive session to consider items so shown on the agenda and as recommended by the legal staff. AYE: Haywood, Warren, Shoemate, Givens, Devine, Shanklin. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 8:25 p.m. and reconvened in regular, open session at 9:05 p.m. Roll call reflected all members present except Ewing-Holmstrom and Patton.

Vincent reported on Item 30 by reading the title shown above. He stated the Council did convene in executive session and discussed the item, which is a foreclosure action. The City Attorney's Office requested a motion to authorize the City Attorney to file a disclaimer of interest in the case, Bank One v. Paige.

MOVED by Warren, SECOND by Devine, to authorize the City Attorney to file a disclaimer of interest in the case, Bank One v. Paige. AYE: Shoemate, Givens, Devine, Shanklin, Haywood, Warren. NAY: None. MOTION CARRIED.

Vincent reported on Item 31 by reading the title shown above. He stated the Council did convene in executive session and discussed this pending workers compensation case of Charles Cook. Vincent said Council discussed

the possibility of settlement and a motion was suggested.

MOVED by Warren, SECOND by Devine, to authorize the City Attorney to negotiate a settlement in the workers compensation case of Charles Cook, Case No. 99-12430A, and if settled, authorize signing and filing of all necessary documents. AYE: Givens, Devine, Shanklin, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

Vincent reported on Item 32 by reading the title shown above. He stated the Council did convene in executive session to discuss the acquisition of property for public purposes. Discussion of this acquisition did take place and no action is required at this time.

Mayor Purcell reported on Item 33 by reading the title shown above. He stated no action is required at this time.

There being no further business to consider, the meeting adjourned at 9:15 p.m. upon motion, second and roll call vote.